

000-644

Executive

OGC Has Reviewed

16 December 1949

Legal Staff

Repayment of Per Diem Allowances

1. The enclosed file presents the case of five Agency employees called to San Francisco to testify in the "Tokyo Rose" trial. They were allowed per diem expenses of \$6.00 per day until 1 July 1949, when the rate was raised to \$8.00 per day. This was apparently based on the Travel Expense Act of 1949 (P.L. 92, 81st Congress) which became effective on 1 July 1949. The Act provided for an increase in the per diem rate to \$9.00 within the limits of the continental United States. The Department of Justice returned our bill with a statement that Government employees traveling as witnesses could not be paid a per diem in excess of \$6.00. This action thus produced a question of whether these employees should refund the excess per diem in order to reimburse the Government for the alleged overpayment.

2. The Travel Expense Act of 1949 applies to travel of officers and employees in the service of the agency by whom they are employed. If these employees had traveled in the business of this Agency, a per diem up to \$9.00 following July 1, 1949 would have been perfectly permissible. However, the specific statute (Title 28 U.S.C.A. § 1823), authorizing payment of per diem for witnesses, established a limit of \$6.00. It is our understanding that it was the intention of Justice to amend this statute in accordance with the increased rate of the Travel Expense Act of 1949. Unfortunately, the amendment did not become effective until 25 October 1949. The employees' travel thus occurred during the interim period when the rates were not in accord. There was, therefore, no authority for the increase in the per diem rate following 1 July 1949 until 25 October 1949, and the amount of the overpayment is therefore a debt payable to the Government for which the employees are responsible.

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cc: Subject  
Chrono  
Legal Decisions

Attach: File

1. Ltr dtd Dec. 7, 1949 to Exec. (orig & 2 copies)
2. Copy Approved for Release 2001/09/03 : CIA-RDP84-00709R000400070227-1
3. Copy Ltr dtd Nov. 18, 1949 to CIA - Attn: [redacted]
4. Copy Ltr dtd 29 Nov. 1949 to [redacted]

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STATSPEC